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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,306	01/16/2004	Bruce S. Jones	NUKZ 2 00311-1	5363
27885	7590	09/13/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			UHLENHAKE, JASON S	
			ART UNIT	PAPER NUMBER

2853

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/758,306	<b>Applicant(s)</b> JONES, BRUCE S.	
	<b>Examiner</b> Jason Uhlenhake	<b>Art Unit</b> 2853	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22 and 25 is/are rejected.
- 7) ☒ Claim(s) 22-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

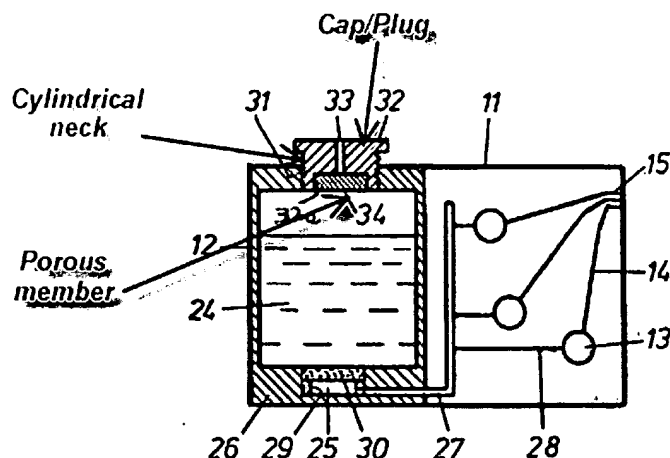
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by  
Amberntsson et al (U.S. Pat. 3,953,862).

***Amberntsson et al discloses:***

- ***regarding claim 22***, an ink cartridge comprising a housing having a top wall, a bottom wall and side walls forming a chamber (12) or receiving ink, an outlet passage (25) through the bottom wall for dispensing ink from the chamber (12, Figure 2), and a vent/air inlet (33) including an opening through the top wall for venting air into the chamber (12) from atmosphere, the improvement comprising: the opening through the top wall including a cylindrical neck having an outer end, the vent being a porous member (34) resting on the outer end to cover the opening and having cells sized to allow air flow into the chamber substantially equal to ink flow through the outlet passage, and a cap securing the porous member (34) on the neck (Column 2, Lines14-23)



### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wenzel (U.S. Pat. 5,700,315) in view of Askren et al (U.S. Pub. 2002/0097283).

#### ***Wenzel discloses:***

- ***regarding claim 25***, a housing having a top wall (80), a bottom wall (32) and side walls (20, 22) forming a chamber for receiving ink, an outlet passage (52) through the bottom wall for dispensing ink from the chamber, and a vent (84) including an opening through the top wall for venting air into the chamber from atmosphere (Figure 1)

***Wenzel does not disclose expressly the following:***

- ***regarding claim 25***, vent being a diaphragm mounted on the top wall and having a flexible portion overlying the opening through the top wall on the inner side thereof

***Askren et al discloses:***

- ***regarding claim 25***, vent (62) being a diaphragm (66) mounted on the top wall and having a flexible portion overlying the opening through the top wall on the inner side thereof (Paragraph 0038), for the purpose of indicating if the pressure threshold has been reached.

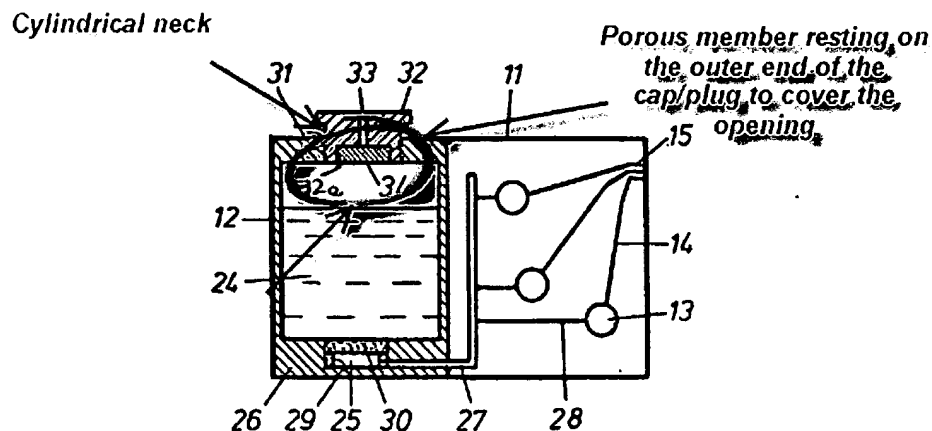
At the time the invention was made it would have been obvious to a person of ordinary skill in the art to incorporate the teaching of vent being a diaphragm mounted on the top wall and having a flexible portion overlying the opening through the top wall on the inner side thereof as taught by Askren into the device of Wenzel, for the purpose of indicating if the pressure threshold has been reached.

***Response to Arguments***

Applicant's arguments filed 7/6/2006 have been fully considered but they are not persuasive. Regarding claim 22, applicant argues that Amberntsson fails to show an opening including a cylindrical neck having an outer end, a porous member resting on the outer end to cover the opening, and a cap securing the porous member on the neck. Amberntsson does disclose an opening (air inlet) including a cylindrical neck having an

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outer end and a secured porous member (34) resting on an outer end of the cap/plug to cover the opening.



### ***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter:

Claims 23-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The primary reason for the indication of allowable subject matter for claims 23-24 is the inclusion of the limitation of the cylindrical neck extends inwardly of the chamber from the top wall and is surrounded by a peripheral recess, whereby the outer end of the neck is adjacent to the outer side of the top wall. It is this limitation found in each of the claims, as it is claimed in the combination, that has not been found, taught or

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suggested by the prior art of record which makes these claims allowable over the prior art.

***Conclusion***


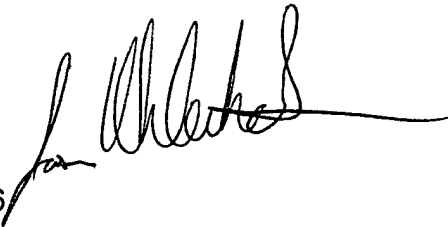
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Uhlenhake whose telephone number is (571) 272-5916. The examiner can normally be reached on Monday - Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSU

September 6, 2006



**STEPHEN MEIER  
SUPERVISORY PATENT EXAMINER**